THE HON'BLE SRI JUSTICE GODA RAGHURAM.

WRIT PETITON NO.9686 OF 2005

DATE: 29-11-2005

Between:

S.S.Bilarwan, s/o late V.Bilarwan,

Aged about….. years, Inspector/CISF,

CISF Unit, Visakhapatnam Steel Plant,

Visakhapatnam

… Petitioner

A n d

The Commandant,

CISF Unit, Visakhapatnam Steel Plant,

Visakhapatnam and 2 others

…. Respondents

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WRIT PETITON NO.9686 OF 2005

ORAL ORDER:

The dispute between the petitioner and the Central Industrial Security Force – the respondent is regards the validity of the respondent's action in recovering penal rent from the petitioner's salary for the quarters retained by him at Mumbai during 01-07-2003 and 31-05-2004. The petitioner was transferred from Mumbai to Visakhapatnam and joined duty at Visakhapatnam on 13-06-2003.

According to him, he retained his quarters at Mumbai for the benefit of his son's education as he was entitled to retain such additional accommodation on payment of the normal rent as per certain circulars applicable to employees of the CISF. The petitioner contends that collection of the penal rent is in transgression of the circulars.

The respondents assert that the circulars permit retention of additional accommodation on collection of normal rent (for quarters retained by an officer in addition to the quarters at the place to which he is subsequently transferred) only for the benefit of members of the family and dependants who are already resident with the officer and at the place where the officer was earlier posted. It is pleaded that the petitioner's son had been admitted to a course of study in the XII class at Mumbai subsequent to the petitioner's transfer to Visakhapatnam. In the circumstances, the petitioner is not immune from collection of penal rent, is the respondents case.

Essentially, the issues in this writ petition involve disputed questions of fact: (a) whether the petitioner's son was admitted to a course of study in Mumbai prior or subsequent to the petitioner's transfer to Visakhapatnam and (b) an interpretation of administrative circulars of the CISF on this aspect. These matters are more appropriately considered by the Civil Court of competent jurisdiction, rather than this Court under Article 226 of the Constitution of India.

On the aforesaid analysis, the writ petition is dismissed with liberty preserved in the petitioner to pursue his appropriate remedies before the Civil Court of competent jurisdiction. There shall be no order as to costs.

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29-11-2005.

Lrkm.